

In the Court of Appeals of the State of Alaska

Fred Michael Esguerra Jr.,
Petitioner,

v.

State of Alaska,
Respondent.

Court of Appeals No. **A-13819**

Order

Date of Order: **June 29, 2021**

Trial Court Case No. **3AN-19-04854CR**

Before: Allard, Chief Judge, Wollenberg, and Harbison, Judges

The Petitioner, Fred Michael Esguerra Jr., is represented by the Public Defender Agency. The Agency recently filed a motion asking this Court to appoint the Office of Public Advocacy to represent Mr. Esguerra. The Agency explains that it has a positional conflict of interest in its representation of Mr. Esguerra in this matter. The State filed an opposition, essentially arguing that this Court cannot make a decision on the Agency's motion because the Agency has not provided sufficient facts in its pleading.

In an order dated June 6, 2021, a single judge of this Court remanded this case to the superior court to determine whether the Public Defender Agency has a positional conflict of interest in this matter, and if so, to appoint the Office of Public Advocacy to represent Mr. Esguerra in this matter.

The Public Defender Agency then filed a motion for reconsideration, contending that given the Agency's duties and its status as an officer of the court, this Court can accept the Agency's representation that a positional conflict of interest exists without requiring an evidentiary hearing for fact finding. Because the Court wishes to

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know the Office of Public Advocacy's position on the Public Defender Agency's contention, the Court directs the Office of Public Advocacy to file a response to the Agency's motion for reconsideration addressing that contention.

The response is due on or before **July 8, 2021**, shall not exceed ten pages, and need not conform with Appellate Rule 212, although the response must include appropriate citations to the record and to legal authority. The Clerk of the Appellate Court is directed to provide a copy of the pleadings in this matter to the Office of Public Advocacy.

Entered at the direction of the Court.

Clerk of the Appellate Courts

A handwritten signature in black ink, appearing to read 'Kaitlin D'Eimon', written over a horizontal line.

Kaitlin D'Eimon, Deputy Clerk

cc: Office of Public Advocacy

Distribution:

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Goldstein, Melissa Hope, Public Defender
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